

Department of the Army, DoD

§ 536.2

SOURCE: 71 FR 69360, Nov. 30, 2006, unless otherwise noted.

Subpart A—The Army Claims System

§ 536.1 Purpose of the Army Claims System.

This part sets forth policies and procedures that govern the investigating, processing, and settling of claims against, and in favor of, the United States under the authority conferred by statutes, regulations, international and interagency agreements, and Department of Defense Directives (DODDs). It is intended to ensure that claims are investigated properly and adjudicated according to applicable law, and valid recoveries and affirmative claims are pursued against carriers, third-party insurers, and tortfeasors.

§ 536.2 Claims authorities.

(a) *General.* Claims cognizable under the following list of statutes and authorities are processed and settled under DA Pam 27-162 and this part. All of these materials may be viewed on the USARCS Web site, [https://www.jagcnet.army.mil/85256F33005C2B92/\(JAGCNETDocID\)/HOME?OPENDOCUMENT](https://www.jagcnet.army.mil/85256F33005C2B92/(JAGCNETDocID)/HOME?OPENDOCUMENT). Select the link “Claims Resources.”

(1) *Tort claims.* (i) The Military Claims Act (MCA), 10 United States Code (U.S.C.) 2733 (see subpart C of this part). The “incident-to-service” provision, applicable to both military and civilian personnel of the Department of Defense, is contained in the MCA.

(ii) The Gonzales Act, 10 U.S.C. 1089. This act permits individual suits against health care providers for certain torts (see § 536.80).

(iii) Certain suits arising out of legal malpractice, 10 U.S.C. 1054, discussed at § 536.81 and at DA Pam 27-162, paragraph 2-62f.

(iv) The Federal Tort Claims Act (FTCA), 28 U.S.C. 1291, 1402, 2401-2402, 2411-2412, and 2671-2680 (see subpart D of this part). The Westfall Act, 28 U.S.C. 2679, an integral part of the FTCA, provides absolute immunity from individual suit for common law torts for employees of the United

States acting within the scope of their employment.

(A) The legislative history of the FTCA.

(B) Regulations of the Attorney General implementing the Federal Tort Claims Act, 28 CFR Part 14.

(C) An appendix to 28 CFR Part 14 sets forth certain delegations of settlement authority to the Secretary of Veterans Affairs, the Postmaster General, the Secretary of Defense, the Secretary of Transportation, and the Secretary of Health and Human Services.

(v) The Non-Scope Claims Act (NSCA), 10 U.S.C. 2737 (see subpart E of this part).

(vi) The National Guard Claims Act (NGCA), 32 U.S.C. 715 (see subpart F of this part).

(vii) Claims under International Agreements or the Foreign Claims Act.

(A) International Agreements Claims Act (IACA), 10 U.S.C. 2734a and 2734b.

(B) Foreign Claims Act (FCA), 10 U.S.C. 2734 (see subpart J of this part).

(viii) The Army Maritime Claims Settlement Act (AMCSA), 10 U.S.C. 4801, 4802 and 4806. Affirmative claims under the AMCSA are processed under 10 U.S.C. 4803 and 4804 (see § 537.16 of this chapter).

(ix) Admiralty Extension Act (AEA), 46 U.S.C. app. 740 (see subpart H of this part).

(x) Claims against nonappropriated fund (NAF) activities and the risk management program (RIMP) (see subpart K of this part), processed under Army Regulation (AR) 215-1 and AR 608-10.

(xi) Claims by the U.S. Postal Service for losses or shortages in postal accounts caused by unbonded Army personnel (39 U.S.C. 411 and Department of Defense (DOD) Manual 4525.6-M).

(2) *Personnel claims (subpart I of this part and AR 27-20, chapter 11).*

(i) The Personnel Claims Act (PCA), 31 U.S.C. 3721 (see AR 27-20, chapter 11).

(ii) Redress of injuries to personal property, Uniform Code of Military Justice (UCMJ), Article 139, 10 U.S.C. 939 (see subpart I of this part).

(3) *Affirmative claims (32 CFR Part 537).*

(i) The Federal Claims Collection Act (FCCA), 31 U.S.C. 3711-3720E.

(ii) The Federal Medical Care Recovery Act (FMCRA), 42 U.S.C. 2651-2653.

(iii) Collection from third-party payers of reasonable costs of healthcare services, 10 U.S.C. 1095.

(b) *Fund source authority for claims under Title 10 statutes.* 10 U.S.C. 2736, advance payments for certain property claims (see § 536.71).

(c) *Fund source authority for tort claims paid by Financial Management Service (FMS).* 31 U.S.C. 1304, provides authority for judgments, awards and compromise settlements.

(d) *Additional authorities under Title 10.* (1) 10 U.S.C. 2735, establishes that settlements (or “actions”) under the Title 10 claims processing statutes are final and conclusive.

(2) 10 U.S.C. 2731, provides a definition of the word “settle.”

(e) *Related remedies statutes.* The Army frequently receives claims or inquiries that are not cognizable under the statutory and other authorities administered by the U.S. Army under this publication and DA Pam 27–162. Every effort should be made to refer the claim or inquiry to the proper authority following the guidance in § 536.34 or § 536.36. (See also the corresponding paragraphs 2–15 and 2–17, respectively, in DA Pam 27–162). Some authorities for related remedies are used more frequently than others. Where an authority for a related remedy is frequently used, it is listed below and is posted on the USARCS Web site (for the address see § 536.2(a)).

(1) Tucker Act, 28 U.S.C. 1346, provides exclusive jurisdiction in the Court of Federal Claims over causes of actions alleging property loss caused by a Fifth Amendment “taking.”

(2) Maritime authority statutes, Public Vessels Act (PVA), 46 U.S.C. app. 781–790, Suits in Admiralty Act (SIAA), 46 U.S.C. app. 741–752, and the Rivers and Harbors Act, 33 U.S.C. 408 and 412.

(3) Federal Employees Compensation Act (FECA), two excerpts: 5 U.S.C. 8116 and 8140, providing guidance on personal injury and death claims by civilian employees arising within the scope of their employment (see DA Pam 27–162, paragraph 2–15b) and information on certain claims by Reserve Officers Training Corps (ROTC) cadets, respectively, (see DA Pam 27–162, paragraph 2–17d(2)).

(4) Longshore and Harbor Workers Compensation Act (LHWCA), 33 U.S.C. 901–950.

(5) Claims for consequential property damage by civilian employees may only be considered in the Court of Federal Claims pursuant to 28 U.S.C. 1491.

(f) *Additional materials.* There are some additional authoritative materials for the processing of claims, mostly of an administrative nature. For a complete listing of all of the supplementary materials relevant to claims processing under this publication and DA Pam 27–162 see appendix B of DA Pam 27–162.

(g) *Conflict of authorities.* Where a conflict exists between a general provision of this publication and a specific provision found in one of this publication’s subparts implementing a specific statute, the specific provision, as set forth in the statute, will control.

§ 536.3 Command and organizational relationships.

(a) *The Secretary of the Army.* The Secretary of the Army (SA) heads the Army Claims System and acts on certain claims appeals directly or through a designee.

(b) *The Judge Advocate General.* The SA has delegated authority to The Judge Advocate General (TJAG) to assign areas of responsibility and designate functional responsibility for claims purposes. TJAG has delegated authority to the Commander USARCS to carry out the responsibilities assigned in § 536.7 and as otherwise lawfully delegable.

(c) *U.S. Army Claims Service.* USARCS, a command and component of the Office of TJAG, is the agency through which the SA and TJAG discharge their responsibilities for the administrative settlement of claims worldwide (see AR 10–72). USARCS’ mailing address is: U.S. Army Claims Service, 4411 Llewellyn Ave., Fort George G. Meade, MD 20755–5360, Commercial: (301) 677–7009.

(d) *Command claims services.* (1) Command claims services exercise general supervisory authority over claims matters arising within their assigned areas of operation. Command claims services will: